

§ 234.54

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loan) may qualify for mortgage insurance under this part.

(1) The project must meet the following criteria:

(i) All units, common elements, and facilities—including those that are part of any master association—must have been completed, and the project cannot be subject to additional phasing or annexation. The project must provide for undivided ownership of common areas by unit owners;

(ii) Control of the owners' association must have been turned over to the unit purchasers, and the unit purchasers must have been in control for at least one year;

(iii) At least 90 percent of the total units in the project must have been conveyed to the unit purchasers, and at least 51 percent of the total units in the project must have been conveyed to purchasers who are occupying the units as their principal residences or second homes. No single entity (the same individual, investor group, partnership, or corporation) may own more than 10 percent of the total units in the project;

(iv) The units in the project must be owned in fee simple or be an eligible leasehold interest, as described in § 234.65, and the unit owners must have sole ownership interest in, and right to the use of, the project's facilities, common elements, and limited common elements including parking, recreational facilities, etc.;

(v) The project must be covered by hazard, flood, and liability insurance acceptable to the Commissioner;

(vi) For projects with more than 30 units, no more than 10 percent of the total units in the project may be encumbered by FHA-insured mortgages. (If endorsement would result in more than 10 percent of the units in such a project being encumbered by FHA-insured mortgages, the condominium project must be approved under paragraphs (a) through (h) of this section.) For projects with between 5 and 30 units inclusive, no more than 20 percent of the total units may be encumbered by FHA-insured mortgages. For projects with four units, only one unit may be encumbered by an FHA-insured mortgage under the spot loan procedure of this paragraph (i); and

(vii) The assumability provisions of § 234.66 must be satisfied.

(2) Lenders must perform an underwriting analysis and certify that a project satisfies the eligibility criteria for a spot loan in a condominium project that has not been approved by FHA. Lenders may use information from the appraiser, the owners' association, the management company, the real estate broker, and the project developer, but the lender must ensure the accuracy of the information obtained from these sources.

(Approved by the Office of Management and Budget under control number 2502–0513.)

§ 234.54 Eligibility of assigned mortgages and mortgages covering acquired property.

The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart (except that the property must be located in a condominium project approved under § 234.26), any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired in the settlement of an insurance claim under any section or title of the Act.

§ 234.63 Location of property.

The mortgage, to be eligible for insurance, shall be on property located in a State, as defined in § 203.251 of this chapter, and not located on "Hawaiian home lands," as that term is defined in section 247(d)(2) of the Act.

§ 234.65 Nature of title.

A mortgage, to be eligible for insurance, shall be on a fee interest in, or on a leasehold interest in, a one-family unit in a project including an undivided interest in the common areas and facilities, and such restricted common areas and facilities as may be designated. To be eligible, a leasehold interest shall be under a lease for not less than 99 years which is renewable, or under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.